

UNITED STATES OF AMERICA  
BEFORE THE NATIONAL LABOR RELATIONS BOARD

SWEET KLEEN LAUNDRY  
AND DRY CLEANING, INC.

and

Case 3-CA--16120

AFL--CIO COMBINATION DRY CLEANERS,  
LAUNDERERS & SERVICE STORE  
EMPLOYEES UNION LOCAL #168

*April 30, 1991*  
DECISION AND ORDER

*By Chairman Stephens and Members Kevarey and Raulabough*

Upon a charge filed by the Union on February 4, 1991, the General Counsel of the National Labor Relations Board issued a complaint on February 25, 1991, against Sweet Kleen Laundry and Dry Cleaning, Inc., the Respondent, alleging that it has violated Section 8(a)(5) and (1) of the National Labor Relations Act. Although properly served copies of the charge and the complaint, the Respondent has failed to file an answer.

On March 25, 1991, the General Counsel filed a Motion to Transfer Case to and Continue Proceeding Before the Board and for Summary Judgment. On March 28, 1991, the Board issued an order transferring the proceeding to the Board and a Notice to Show Cause why the motion should not be granted. The Respondent filed no response. The allegations in the motion are therefore undisputed.

The National Labor Relations Board has delegated its authority in this proceeding to a three-member panel.

## Ruling on Motion for Summary Judgment

Section 102.20 of the Board's Rules and Regulations provides that the allegations in the complaint shall be deemed admitted if an answer is not filed within 14 days from service of the complaint, unless good cause is shown. The complaint states that unless an answer is filed within 14 days of service, ''all of the allegations in the complaint shall be deemed to be admitted to be true and shall be so found by the Board.'' Further, the undisputed allegations in the Motion for Summary Judgment disclose that the Regional Director for Region 3, by letter dated March 12, 1991, notified the Respondent that unless an answer was received by March 19, 1991, a Motion for Summary Judgment would be filed.

In the absence of good cause being shown for the failure to file a timely answer, we grant the General Counsel's Motion for Summary Judgment.

On the entire record, the Board makes the following

## Findings of Fact

## I. Jurisdiction

The Respondent, a corporation with an office and various places of business located in Buffalo, New York, is engaged in the dry cleaning and laundry business. During the 12-month period ending on December 31, 1990, the Respondent in the course and conduct of its business operations had gross revenues in excess of \$500,000. During the same 12-month period, the Respondent purchased and received at its Buffalo, New York facilities products, goods, and materials valued in excess of \$1000 from other enterprises, including Tschopp Supplies, located within the State of New York, each of which other enterprises had received the products, goods, and materials directly from points outside the State of New York. We find that the Respondent is an employer engaged in commerce within the meaning of Section

2(6) and (7) of the Act and that the Union is a labor organization within the meaning of Section 2(5) of the Act.

## II. Alleged Unfair Labor Practices

At all times material the Union has been the exclusive collective-bargaining representative, within the meaning of Section 9(a) of the Act, of the Respondent's employees in the following unit, which is appropriate for bargaining within the meaning of Section 9(b) of the Act:

All full-time and part-time employees of the Respondent, excluding supervisors, foremen, driver-salesmen, office workers, engineers and store/counter clerks.

The Respondent's recognition of the Union as the exclusive bargaining representative of the unit employees has been embodied in successive collective-bargaining agreements between the Respondent and the Union, the most recent of which was effective by its terms for the period from March 6, 1989, to March 6, 1991. Sections 15 and 22 of the most recent contract obligate the Respondent to deduct and submit to the Union monthly dues deducted from employees' wages pursuant to checkoff authorizations.

Since about September 1, 1990, the Respondent has failed to continue in full force and effect all terms of the parties' collective-bargaining agreement by failing and refusing to remit checked off dues to the Union. Accordingly, we find that the Respondent violated Section 8(a)(5) and (1) of the Act.

## Conclusions of Law

By failing since about September 1, 1990, to remit to the Union dues checked off pursuant to the parties' collective-bargaining agreement, the Respondent has engaged in unfair labor practices within the meaning of Section 8(a)(5) and (1) and Section 2(6) and (7) of the Act.

## Remedy

Having found that the Respondent has engaged in certain unfair labor practices, we shall order it to cease and desist and to take certain affirmative action designed to effectuate the policies of the Act. Specifically, we shall order the Respondent to adhere to the provision in the collective-bargaining agreement requiring the Respondent to remit checked off dues to the Union, and we shall order the Respondent to remit to the Union dues that it has unlawfully failed to pay since about September 1, 1990, until the expiration of the parties' collective-bargaining agreement on March 6, 1991,<sup>1</sup> with interest to be computed as prescribed in New Horizons for the Retarded, 283 NLRB 1173 (1987).

## ORDER

The National Labor Relations Board orders that the Respondent, Sweet Kleen Laundry and Dry Cleaning, Inc., Buffalo, New York, its officers, agents, successors, and assigns, shall

## 1. Cease and desist from

(a) Refusing to bargain with AFL--CIO Combination Dry Cleaners, Launderers & Service Store Employees Union Local #168, as the exclusive representative of employees in the appropriate bargaining unit described below, by failing to continue in full force and effect the provision of the parties' collective-bargaining agreement requiring the Respondent to remit to the Union dues checked off from the pay of unit employees. The appropriate unit is:

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<sup>1</sup> There is no statutory duty to follow contractual dues-checkoff procedures following the expiration of a collective-bargaining agreement. Bethlehem Steel Co., 136 NLRB 1500, 1502 (1962).

All full-time and part-time employees of the Respondent, excluding supervisors, foremen, driver-salesmen, office workers, engineers and store/counter clerks.

(b) In any like or related manner interfering with, restraining, or coercing employees in the exercise of the rights guaranteed them by Section 7 of the Act.

2. Take the following affirmative action necessary to effectuate the policies of the Act.

(a) Remit to the Union all dues, with interest, that it has failed to remit from about September 1, 1990, until the expiration of the parties' collective-bargaining agreement on March 6, 1991, as set forth in the remedy section of this decision.

(b) Preserve and, on request, make available to the Board or its agents for examination and copying, all payroll records, social security payment records, timecards, personnel records and reports, and all other records necessary to analyze the amount due to the Union under the terms of this Order.

(c) Post at its facility in Buffalo, New York, copies of the attached notice marked "'Appendix.'"<sup>2</sup> Copies of the notice, on forms provided by the Regional Director for Region 3, after being signed by the Respondent's authorized representative, shall be posted by the Respondent immediately upon receipt and maintained for 60 consecutive days in conspicuous places including all places where notices to employees are customarily posted. Reasonable steps shall be taken by the Respondent to ensure that the notices are not altered, defaced, or covered by any other material.

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<sup>2</sup> If this Order is enforced by a judgment of a United States court of appeals, the words in the notice reading "'POSTED BY ORDER OF THE NATIONAL LABOR RELATIONS BOARD'" shall read "'POSTED PURSUANT TO A JUDGMENT OF THE UNITED STATES COURT OF APPEALS ENFORCING AN ORDER OF THE NATIONAL LABOR RELATIONS BOARD.'"

(d) Notify the Regional Director in writing within 20 days from the date of this Order what steps the Respondent has taken to comply.

Dated, Washington, D.C. April 30, 1991

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James M. Stephens, Chairman

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Dennis M. Devaney, Member

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John N. Raudabaugh, Member

(SEAL)

NATIONAL LABOR RELATIONS BOARD

APPENDIX

NOTICE TO EMPLOYEES

Posted by Order of the  
National Labor Relations Board  
An Agency of the United States Government

The National Labor Relations Board has found that we violated the National Labor Relations Act and has ordered us to post and abide by this notice.

WE WILL NOT refuse to bargain with AFL--CIO Combination Dry Cleaners, Launderers & Service Store Employees Union Local #168, as the exclusive representative of employees in the appropriate bargaining unit described below, by failing to continue in full force and effect the provision of the collective-bargaining agreement requiring us to remit to the Union dues checked off from the pay of the unit employees. The appropriate unit is:

All full-time and part-time employees of the Respondent excluding supervisors, foremen, driver-salesmen, office workers, engineers and store/counter clerks.

WE WILL NOT in any like or related manner interfere with, restrain, or coerce you in the exercise of the rights guaranteed you by Section 7 of the Act.

WE WILL remit to the Union all dues, with interest, that we have failed to remit from about September 1, 1990, until our collective-bargaining agreement with the Union expired on March 6, 1991.

SWEET KLEEN LAUNDRY  
AND DRY CLEANING, INC.

\_\_\_\_\_  
(Employer)

Dated \_\_\_\_\_ By \_\_\_\_\_  
(Representative) (Title)

This is an official notice and must not be defaced by anyone.

This notice must remain posted for 60 consecutive days from the date of posting and must not be altered, defaced, or covered by any other material. Any questions concerning this notice or compliance with its provisions may be directed to the Board's Office, 111 West Huron Street, Room 901, Buffalo, New York 14202-2387, Telephone 716--846--4951.